



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)

(Implements RCW 34.05.310)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 06-04

Subject of possible rule making: This rule making would be directed towards correcting deficiencies noted by EPA in their formal disapproval (March 22, 2006) of Washington's 2003 revisions to the state surface water quality standards (Chapter 173-201A WAC).

This proposed corrective rule would:

- Change the designated uses for many rivers from "spawning and noncore rearing" to "spawning and core rearing."
- Change a small number of rivers to the "native char" designated use-type
- Add spawning locations and timing windows where explicit spawning/incubation temperature criteria would apply
- Correct miscellaneous minor (typographic) errors introduced during the 2003 rule making

Statutes authorizing the agency to adopt rules on this subject: Chapter 90.48.035 RCW provides clear and direct authority for Ecology to revise the water quality standards for this purpose.

Reasons why rules on this subject may be needed and what they might accomplish: Portions of the surface water quality standards (Chapter 173-201A WAC) adopted in 2003 have been disapproved by the US Environmental Protection Agency (EPA). Federal law (the Clean Water Act) requires that revisions of state water quality standards be approved by EPA prior to being used by the state for federal clean water act actions. This rule proposal is designed to bring about the required EPA approval so that the state will have legally effective water quality standards.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: Developing and administering surface water quality standards to protect water quality and meet the objectives of the federal Clean Water Act is a unique responsibility assigned to the Department of Ecology in Chapter 90.48 RCW.

Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
☐ Pilot rule making
☐ Agency study
☒ Other (describe): Proposed changes in aquatic life protection will be based on information supplied by the EPA as part of their disapproval of Ecology's 2003 rule making.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Information on the planned rule making and the public review and comment opportunities will be maintained on Ecology's website at: <http://www.ecy.wa.gov/programs/wq/swqs>. Ecology will also send a link to the email listserve for water quality standards. Notices will be directly provided using the existing water quality standards mail list and email list serve.

Information can also be obtained by contacting: Mark Hicks, Department of Ecology, Water Quality Program, P.O. Box 47600, Olympia, WA 98504-7600 Email: mhic461@ecy.wa.gov Phone: 360-407-6477 Fax: 360-407-6426.

April 10, 2006

DATE

David C. Feeley

NAME (TYPE OR PRINT)

[Signature]

SIGNATURE

Water Quality Program Manager

TITLE

Program Manager

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